

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 681-A  
Case No. 91-16/89-25  
(Omission of Square 317 et al in the  
Downtown Development District)  
June 8, 1992

Case No. 89-25 was an initiative of the Zoning Commission for the District of Columbia resulting from a request by the District of Columbia Office of Planning (OP) to consider amendments to the text of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, and amendments to the Zoning Map of the District of Columbia. The proposed amendments created and mapped a new zone district known as the "Downtown Development Overlay" ("DD") District. The purpose of the DD District is to help establish development policies that would allow for further implementation of the Comprehensive Plan for the National Capital. A complete statement of the purposes of the DD District is set forth in 11 DCMR 1700.2.

Z.C. Order No. 681 in Z.C. Case No. 89-25 was adopted by the Commission on December 17, 1990 and became final and effective upon publication in the D.C. Register on January 18, 1991 (38 DCR 612).

By memorandum dated December 3, 1990, the Office of Planning (OP) noted the following:

"In Paragraphs 1706.8(b) and (c), which relate to the Housing Priority Area and subareas thereof, six square numbers are missing, as follows:

1. 1706.8(b) Squares 317, 343, 427 and 428; and
2. 1706.8(c) Squares 431 and 432.

The Office of Planning also stated that the omissions were simply typographical errors and that there was no policy intention by the Commission nor OP to amend the boundaries or the affected squares in the Housing Priority Area.

On September 16, 1991, the Zoning Secretariat created Z.C. Case No. 91-16 to administratively distinguish matters associated with the omission of Square 317 et al from Z.C. Case No. 89-25, the Downtown Development Overlay District.

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By letter dated June 10, 1991, J. Kirkwood White, counsel from the law firm of Dunnells, Duval and Porter and representing 1108 K Street Associates, requested the Zoning Commission to confirm that Square 317 was not included within the housing priority area set forth in 11 DCMR 1706.8. He requested the Commission to hold an expedited, contested case public hearing on the exclusion of Square 317 from the housing requirements of Z.C. Order No. 681.

A letter dated July 2, 1991 from City Council Chairman John Wilson was received into the record of Z.C. Case No. 91-16 and supported the 1108 K Street Associates' request.

A letter dated July 5, 1991, from Ellen M. McCarthy on behalf of "The Coalition for a Living Downtown", was received into the record to convey the belief that both squares 317 and 343 were clearly intended to be included in the housing priority areas, and were excluded only through clerical error.

On July 8, 1991 at its regular monthly meeting, the Commission considered the above-referenced letters. After discussion, the Commission determined that it did not intend to exclude any squares from the effect of Z.C. Order No. 681. The Commission authorized the publication of a notice of proposed rulemaking to administratively correct the inadvertent omission of Square 317 et al from Z.C. Order No. 681.

By letter dated August 2, 1991, counsel for the 1108 K Street Associates reiterated his request to hold an expedited public hearing on the question of whether Square 317 should be within or outside of the Downtown Development District's housing priority areas.

The Commission, at its monthly meeting on September 10, 1991, considered the above-referenced letter and concluded that it would adhere to its decision to publish a notice of proposed rulemaking.

On March 9, 1992 at its regular monthly meeting, the Commission discussed a draft notice of proposed rulemaking, concurred with OP that it was not its intent to omit Squares 317 et al from the Downtown Development District decision. Additionally, the Commission amended the draft to indicate that Z.C. Case No. 91-16 represents further refining of Z.C. Case No. 89-25.

The proposed decision to approve the corrections to Z.C. Order No. 681 was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. By report dated May 28, 1992, NCPC found that the objectives of the proposed map amendment to the DD District are not inconsistent with the Comprehensive Plan for

the National Capital. In the absence of the actual physical proposals, the NCPD is unable to assess the impact that the development requirements may have on the Federal Establishment or other Federal interests in the National Capital.

The Zoning Commission concurs with OP and believes that squares 317, 343, 427, 428, 431 and 432 were inadvertently omitted from Z.C. Order No. 681 and that there was no intention by the Commission to amend the boundaries or the affected squares in the housing priority areas by omitting the subject squares.

The Commission believes that its proposed decision to correct Z.C. Order No. 681 is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital, as amended.

A notice of proposed rulemaking was published in the D.C. Register on April 3, 1992 (39 DCMR 2333). As a result of the publication of the notice of proposed rulemaking, no comments were timely received into the record.

In consideration of the reasons set forth herein, the Zoning Commission hereby orders **APPROVAL** of amendment of the Zoning Regulations and Map to add squares 317, 343, 427, 428, 431 and 432 to the three housing priority subareas, and adopt a map that depicts those subareas. The specific amendments to the Zoning Regulations and Map are as follows:

1. Add squares 317, 343, 427 and 428 to the squares that are explicitly referenced in 11 DCMR 1706.8(b), by amending that provision to read as follows:
  - b. Housing Priority Area B, the Mount Vernon Square South area, comprises the DD/C-2-C and DD/C-3-C zoned properties that are located south of Massachusetts Avenue, including squares and parts of squares numbered 247, 283, 284, 316, 317, 342, 343, 371, 372, 427, 428, 452, 453, 485, 486, 517 and 529; and
2. Add squares 431 and 432 to the squares that are explicitly referenced in 11 DCMR 1706.8(c), by amending that provision to read as follows:
  - c. Housing Priority Area C, the Downtown Core area, comprises the DD/C-4 zoned properties that are located south of H Street, including squares and parts of squares numbered 406, 407, 408, 431, 432, 454, 455, 456, 457, 458, 459, and 460.

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3. Adopt, as an Appendix to chapter 17, Map B, which is referenced in 11 DCMR 1706.2, and which follows and is incorporated in this order.

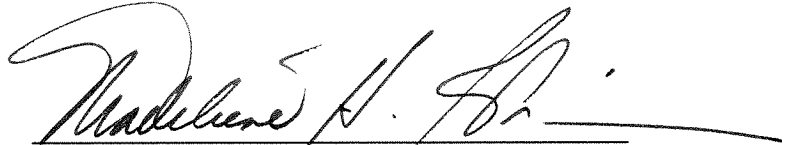
Vote of the Zoning Commission taken at the public meeting on March 9, 1992, to approve the draft notice of proposed rulemaking, as amended, by a vote of 4-0: (Maybelle Taylor Bennett, Lloyd D. Smith, Tersh Boasberg and John G. Parsons, to approve - William L. Ensign, not present, not voting).

This order was adopted by the Zoning Commission at its monthly meeting on June 8, 1992 by a vote of 4-0: (John G. Parsons, Lloyd D. Smith, William L. Ensign and Tersh Boasberg, to adopt - Maybelle Taylor Bennett, not present, not voting).

In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register, that is, on JUL - 3 1992.

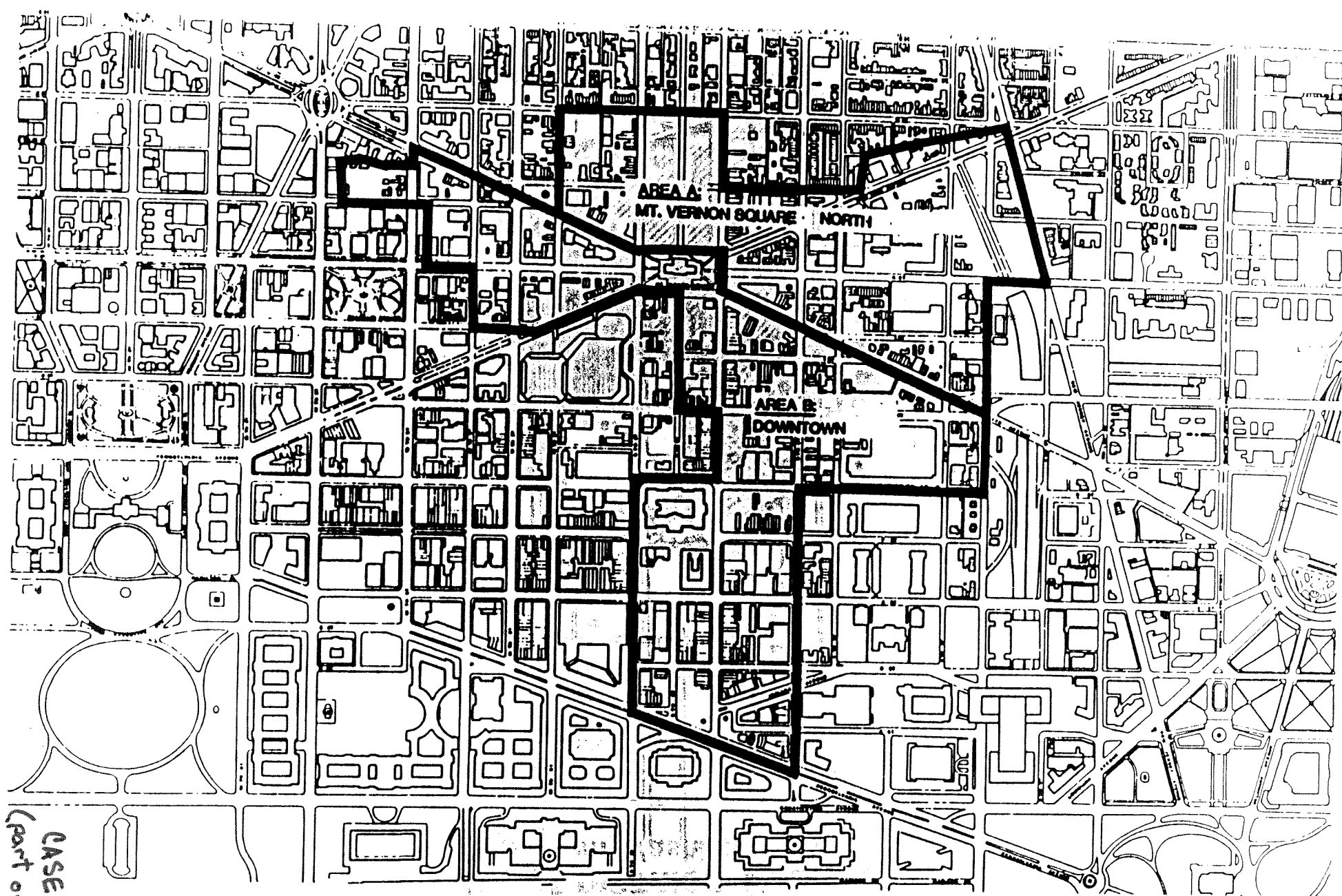


TERSH BOASBERG  
Chairman  
Zoning Commission

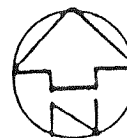


MADELIENE H. ROBINSON  
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**HOUSING PRIORITY AREAS**  
**MAP B**



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(part of Exh. No. 48)